

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14875 of Joel and Lorraine Kaplan, as amended, pursuant to 11 DCMR 3107.2, for a variance from the minimum rear yard requirements (Sub-section 404.1) and a variance from the minimum width of open court requirements (Sub-section 406.1) for a proposed two-story addition to an existing single-family dwelling in an R-1-B District at premises 4547 Lowell Street, N.W. (Square 1605, Lot 50).

HEARING DATE: October 19, 1988

DECISION DATES: November 2 and December 7, 1988

FINDINGS OF FACT:

1. The application was amended at the public hearing to eliminate a request for a variance from the use provisions to establish an office use in a portion of the proposed addition.
2. The property is located on the north side of Lowell Street between Foxhall Road and 45th Street and is known as premises 4547 Lowell Street, N.W. It is zoned R-1-B.
3. The site is rectangular in shape with a frontage of fifty feet along Lowell Street and a depth of 75 feet. The site contains 3,750 square feet of lot area.
4. The site is improved with a two-story plus basement stucco single-family detached dwelling which was constructed prior to the adoption of the current Zoning Regulations on May 12, 1958. The applicants propose to construct a one- and two-story addition to the rear of the existing dwelling.
5. The existing structure contains approximately 2,002 square feet of floor area. The proposed addition will add a total of 411 square feet of interior living space. A screened porch and open decks will add 368 square feet of exterior living space.
6. The proposed addition would allow for the expansion of the existing kitchen, a new eat-in area, a family room, a second story loft a screened porch and deck space to allow for more efficient allocation of space for the applicants' growing family.
7. The existing structure is nonconforming as to the side yard requirements. The side yard on the eastern side of the

property measures seven feet. The side yard on the western side of the property measures 10.5 feet.

8. The R-1-B District requires a minimum lot area of 5,000 square feet. The subject site has a lot area of 3,750 square feet.

9. The R-1-B District permits a maximum lot occupancy of 40 percent or 1,500 square feet for the subject site. The existing structure occupies 831.91 square feet of the site. The total lot occupancy of the site with the proposed addition would be 1,260.33 square feet or 33.6 percent.

10. The proposed addition would extend 19.5 feet from the rear of the existing structure. The resultant rear yard would measure 11.2 feet. The R-1-B District requires a minimum rear yard of 25 feet. The applicants are seeking a variance of 13.8 feet or 55.2 percent from the minimum rear yard requirements.

11. The configuration of the proposed addition results in the creation of an open court 3.66 feet in width. The minimum width of open court required is six feet. The applicants are seeking a variance of 2.34 feet or 39 percent from the minimum width of open court requirements.

12. The location of the proposed addition at the rear of the existing dwelling has been designed to integrate the existing interior circulation and kitchen features with the proposed addition.

13. On the east side, the proposed addition has been located flush with the side wall of the existing structure to permit the extension of the kitchen in its existing location. The proposed family room is immediately to the rear of the proposed kitchen extension and eat-in area. A screened porch is proposed to be located immediately adjacent to the family room at a 90 degree angle to the remainder of the proposed addition. An exterior deck will be located between the screened porch and the existing structure. The second story will contain loft space and an open deck above the screened porch.

14. The proposed configuration of the addition is designed to protect existing windows to the formal dining area in the existing structure, as well as to permit the retention of the existing outside stairwell to the basement level of the dwelling.

15. The applicants' architect testified that alternative design and locations considered for the premises were impractical. Construction in the 10.5 foot western side yard would result in a 2.5 foot wide addition completely separated from the existing kitchen which the applicant

wishes to expand and modernize. Removal of the existing outside stairwell to the basement would be expensive and, more importantly, would require excavation which could impact on the structural integrity of the existing dwelling. Should removal of the basement stairwell occur, an addition with a depth of ten feet could be constructed across the entire width of the building. Such an addition would block existing windows rendering existing living space as interior space.

16. The applicants' architect further testified that the varying building heights results in less impact in terms of massiveness of the structure on adjoining property owners. Further, the door and window placement of the proposed addition is designed and oriented toward the newly created court and deck area, thereby reducing any loss of privacy of adjoining property owners.

17. The Office of Planning, (OP) by memorandum dated September 29, 1988, recommended approval of the application. The OP was of the opinion that the pre-1958 subdivision of the subject property has resulted in a substandard lot area which significantly contributes to the applicants' practical difficulty in complying with all of the area requirements of the R-1-B District.

18. Advisory Neighborhood Commission 3-C, by letter dated September 30, 1988, supported the granting of the application on the grounds that there was general community acceptance of the proposal and that the proposal was determined to complement the property and thus the neighborhood.

19. The record contains one letter and a petition of six signatures in support of or offering no objection to the granting of the application.

20. The owner of 3211 Foxhall Road appeared at the public hearing in opposition to the application. The opposition was generally based on the following.

- a. The property value of 3211 Foxhall Road would be greatly reduced by a reduction in the depth of the applicants' rear yard to 11.2 feet.
- b. Granting a variance would create a precedent allowing similar rear additions in the immediate area.
- c. The proposed addition would infringe upon the existing sense of separation and privacy to 3211 Foxhall Road.
- d. The use of the premises for a single-family

dwelling could continue without hardship if the proposed addition were not constructed.

- e. An addition could be added to the sides and rear of the existing building which would not require variance relief.
- f. The proposed addition would nearly double the size of the existing dwelling and is not in keeping with the intent, purpose and integrity of the zone plan.

21. In addressing the issues and concerns of the opposition, the Board notes that every application is considered based on its individual merits and that the decision of the Board on a specific application is, therefore, not of a precedential nature. The Board further notes that the applicant is not required to demonstrate a "hardship" in the instant case but instead must demonstrate a "practical difficulty" which would result from the strict application of the Zoning Regulations. Based on the applicants' testimony, the plans of record, and the information presented by the opposition, the Board finds that the applicants' have met their burden of proof as further stated in the conclusions of law and opinion. The Board further finds that the proposed addition, as designed, will have minimal impacts on adjoining property and is generally in keeping with the intent of the R-1 District to protect low density residential areas. Based on the evidence of record, the Board is not persuaded that the opposition's allegations that the proposed addition would double the size of the existing building is factual. The Board further is unable to assess any adverse effect the proposed improvements would have on property values in the immediate area because the record contains no probative evidence supporting that allegation.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the requested relief can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose or integrity of the zone plan.

The Board concludes that the applicants have met the requisite burden of proof in showing a practical difficulty inherent in the property itself. The site is shallow and is

smaller than the minimum lot size permitted in the R-1-B District. The existing structure predates the current Zoning Regulations and is currently nonconforming with respect to its eastern side yard. The small size and location of the existing dwelling, its interior configuration, the location of the existing windows, and the location of the existing stairwell to the basement level make it impractical for the applicants to expand on other portions of the site. The size, design, and massing of the proposed addition, as well as the location of the structure 11.2 feet from the property line, will not result in a loss of light, air or privacy to adjoining property owners. The proposed development is below the permitted lot occupancy for the R-1-B District.


The Board further concludes that the proposed addition. The existing single-family detached dwelling is consistent with the intent and purpose of the R-1-B District and will not result in substantial detriment to the public good nor substantially impair the intent and purpose of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: Public Meeting of November 2, 1988 --
2-1 (Charles R. Norris and William F. McIntosh to grant; Elliott Carroll opposed to the motion by proxy; Paula L. Jewell and Carrie L. Thornhill not voting, not having heard the case).

Public Meeting of December 7, 1988 --
4-1 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant; Elliott Carroll opposed to the motion by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

MAY 18 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE

WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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